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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,766	10/23/2000	Mervin L. Grindahl	65936-5	7426
22504	7590	03/08/2006	EXAMINER	
DAVIS WRIGHT TREMAINE, LLP			MATTIS, JASON E	
2600 CENTURY SQUARE			ART UNIT	
1501 FOURTH AVENUE			PAPER NUMBER	
SEATTLE, WA 98101-1688			2665	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action Before the Filing of an Appeal Brief	Application No. 09/694,766	Applicant(s) GRINDAHL ET AL.	
	Examiner Jason E. Mattis	Art Unit 2665	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-16, 58, and 60-65.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

DETAILED ACTION

1. This Office Action is in response to the Amendment After-Final filed 1/30/06. Claims 1-16, 58, and 60-65 are currently pending in this application.

Response to Arguments

2. Applicant's arguments filed 1/30/06 have been fully considered but they are not persuasive.

In response to Applicant's argument that the references relied upon in the rejections are incompatible and teach away from combination of their teachings, the Examiner respectfully disagrees. First, it is noted that each of Chambers et al., Schreiber et al., and Engels et al. disclose OFDM wireless communication systems. Therefore, each of these references is in a similar field of technology. Next, it is noted that Chambers et al. does not disclose any preferred coverage area radius. Schreiber et al. discloses an OFDM base station with a coverage area radius of more than one mile and less than 10 miles. The combination of Chambers et al. and Schreiber et al. relied upon in the rejections is a combination of the system of Chambers et al. with the teaching of the coverage area radius of Schreiber et al. Since there is no specific teaching of a preferred coverage area radius in Chambers et al., the use of the coverage area radius disclosed by Schreiber et al. in the system and method of Chambers et al. does not teach away from the teachings of Chambers et al. Further,

Engels et al. discloses an indoor wireless OFDM communication system. Although Engels et al. does not specifically use the word "antenna" Engels et al. does disclose inherently disclose the use of antennas since there must be some element of the indoor OFDM receiver that acts as an antenna to receive OFDM signals. Since there is no specific teaching in Chambers et al. that precludes the use of an indoor antenna, the use of the antenna/receiver disclose by Engels et al. in the system and method of Chambers et al. does not teach away from the teachings of Chambers et al.

In response to Applicant's argument no motivation to combine the references has been supplied, the Examiner respectfully disagrees. First, the motivation to combine or modify the reference does not have to be found, either explicitly or implicitly, in the references themselves, but may be found in the knowledge of one of ordinary skill in the art. It is noted that the motivation to combine the teachings of Schreiber et al. (the motivation to provide a coverage area with an acceptably large signal to noise ratio) may be found in the Schreiber et al. reference itself. Further, the motivation to combine the teachings of Engels et al. (to allow a more flexible placement of the transceivers) is an advantage gained by the system of Engels et al. that is apparent to one of ordinary skill in the art. Therefore, there is sufficient motivation to combine the references.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason E. Mattis whose telephone number is (571) 272-3154. The examiner can normally be reached on M-F 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jem

A handwritten signature in black ink, appearing to read 'Huy Vu', with a stylized flourish at the end.

HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600